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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Third periodic reports of States parties due in 1991

Addendum

SRI LANKA*

[12 July 1995]

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* This document contains information submitted by the Government of Sri Lanka to supplement its third periodic report (document CCPR/C/70/Add.4).

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V. The Commission to Investigate Allegations of Bribery or Corruption Act

VI. The Parliamentary Commissioner for Administration (Amendment) Act No. 26 of 1994.

VII. The Registration of Deaths (Temporary Provisions) Act

1/ The annexes are available for consultation in the secretariat.

Introduction

1. Elections to the 10th Parliament of Sri Lanka were held on 16 August 1994. The Sri Lanka Parliament consists of 225 members, of whom 196 represent 22 electoral districts while the remaining 29 are chosen from the national lists. The voter participation at the election was 76.24 per cent.

2. The Constitution of Sri Lanka makes provision for the electoral system to be followed and provides for the office of Elections Commissioner for the purpose of ensuring impartiality, fairness and compliance with the law in respect of the elections.

3. The People's Alliance Government was elected to office in multiparty elections on 16 August 1994.

4. The elections were observed by an international team of observers comprising 44 persons from 12 countries. The observers met with NGOs and local groups both before and after the polls. The elections were also observed by two local groups, the People's Alliance for Free and Fair Elections (PAFFEL) and the Movement for Free and Fair Elections (MFFE). The international observers concluded that the conduct of the elections was free and fair.

5. The presidential election was held on 9 November 1994. Voter participation was 70.52 per cent of the electorate. The presidential election too was monitored by a team of international observers and the two local groups. President Chandrika Bandaranaike Kumaratunga of the People's Alliance received 62 per cent of the total votes polled and was elected fourth Executive President of Sri Lanka, and assumed office on 12 November 1994. The People's Alliance campaigned for and was elected to governmental office on a mandate of seeking a durable and peaceful solution to the conflict in the north and the east of the country.

6. Thus, three areas of priority concern to the People's Alliance Government are:

(i) A negotiated political settlement to issues affecting the north and the east;

(ii) Promotion and protection of human rights;

(iii) Constitutional reforms for the devolution of power.

The ethnic issue

7. A negotiated political settlement of issues affecting the north and the east has been accorded priority consideration by the Government. In order to facilitate the peace process, and as a confidence-building measure, the embargo enforced for security reasons on the transport of certain items to the north and the east was partially lifted in September 1994. The first round of talks between the Government and the Liberation Tigers of Tamil Eelam (LTTE) took place in October 1994 in Jaffna. The second round of peace talks,

scheduled for 24 October 1994, was suspended following a bomb attack at an opposition political rally in which the opposition presidential candidate and more than 50 other persons were killed. The nature of the suicide attack was similar to previous such attacks by the LTTE. Despite this grave provocation, the Government held the second round of peace talks with the LTTE on 3 January 1995.

8. The principal components of the Government's policy during its negotiations with the LTTE were:

(a) The alleviation of hardships suffered by the Tamil people in the north due to the conflict;

(b) The conclusion of a cessation of hostilities agreement with the LTTE;

(c) The development of a durable solution to the problems of the Tamil people in the north and the east through a political dialogue.

9. The Cessation of Hostilities Agreement came into effect on 8 January 1995 (see annex I). Committees of Investigation into Violation of the Terms of Cessation of Hostilities (Peace Committees) were set up in the areas of Jaffna, Mannar, Mullaitivu, Vavuniya, Trincomalee, Batticaloa/Amparai and others as deemed necessary. Each committee included two persons representing the Government and the LTTE. Representatives nominated by the Governments of Canada, the Netherlands and Norway served as chairmen of the committees.

10. The Government's commitment to the peace process was evident in several concrete measures effected since it initiated the process of dialogue with the LTTE.

(i) In order to alleviate the hardships faced by the people of the north resulting from the embargo imposed for security reasons on certain items, the embargo was lifted in respect of more than 70 items. Restrictions remained with regard to only eight items with direct military implications. Prompt action was further taken by the Government to remove constraints and obstacles of an administrative nature giving rise to delays in the transport of unembargoed items. Among the items which the Government agreed to send to the north was fuel, the supply of which had been restricted for more than seven years.

(ii) The Government manifested its willingness to alleviate the economic difficulties faced by the people of the north, resulting from the ban on fishing imposed for security reasons on a considerable part of the northern and eastern waters. Fishing has been a significant means of livelihood for the people inhabiting the coastal areas in the north and the east. The Government removed the restriction on fishing throughout these waters except in a very small number of clearly designated zones in close proximity to army camps in the north. The Government intended to review even this limited restriction within three months in order to make arrangements for fishing in the entirety of Sri Lanka's territorial waters.

(iii) The first phase of the negotiation with the LTTE was primarily concerned with the implementation of a comprehensive rehabilitation and reconstruction package for the north and the east. An SL Rs 39 billion package was developed for this purpose. The Government endeavoured to put into action a plan to reconstruct roads, irrigation canals, hospitals, schools and a variety of amenities which the people had been deprived of throughout the duration of the conflict.

11. The Government has followed a consistent and unwavering policy that it is the responsibility and the duty of the State to provide for the needs of all people living in all parts of the country, without distinction.

12. In order to normalize the living conditions of the people of the north and in particular, to facilitate rapid development work in the north and the passage of vehicular traffic to and from the Jaffna peninsula, the Government agreed to the opening of the Elephant Pass and Sangupiddi routes linking Jaffna peninsula to the mainland. This measure was also intended to ease the travel of pilgrims from Jaffna to Colombo during the visit of His Holiness the Pope. However, no agreement could be arrived at with the LTTE on this issue, as the LTTE linked the opening of a safe passage to Jaffna to the removal of the army camp located near the Pooneryn-Sangupiddy road. The Government had pointed out that the removal of that camp had clear military repercussions and would be detrimental to public security. It was pointed out that that issue had to be addressed in the context of the progress to be made with regard to the political discussions leading to a negotiated end to the conflict. The Cessation of Hostilities Agreement required the maintenance of the status quo and that neither side should attempt to affect the other's military capability.

13. The Government, however, undertook to revert to this issue in three months in the overall context of the peace talks. In the interim, the Government withdrew the camp perimeter by 600 metres and gave an undertaking not to place any check points on the road to allow unobstructed use by civilians.

14. On some of the other issues raised by the LTTE, which had clear military implications, such as the movement of armed LTTE cadres in the east, the Government undertook to conclude an annex to the Cessation of Hostilities Agreement.

15. The Government had informed the LTTE that that and other issues raised by the LTTE could be discussed further and resolved once the Peace Committees consisting of foreign representatives and representatives of the LTTE and the Government began to function. The Government repeatedly asked the LTTE that the Peace Committees be permitted to function. However, insistence of the LTTE on new conditions prevented them from functioning.

16. To meet the condition that a separate authority be established to implement development projects in the north, the Government appointed a special task force headed by a Cabinet Minister and indicated its readiness to accept the LTTE participation in the Task Force.

17. The fourth round of talks between the Government and the LTTE was held on 10 and 11 April 1995.

18. Despite the response of the Government to the new conditions put forward by the LTTE, the Cessation of Hostilities Agreement was unilaterally violated by the LTTE on 18 April 1995. Two boats of the Sri Lanka navy berthed in Trincomalee harbour were blown up in an under-sea operation by an LTTE squad, causing the death of several naval personnel and injuries to others. The Agreement on the Cessation of Hostilities stipulated that 72 hours' notice be given by either party before termination of the cessation of hostilities. The unilateral hostile action of the LTTE, which resulted in the loss of lives and damage to State property, was in breach of this requirement.

19. The LTTE had clearly indicated to the Government that 19 April was not an "ultimatum" issued to the Government but only a "time frame" suggested to meet the various demands of LTTE. Thus the unilateral action of the LTTE amounts to an act of perfidy on its part.

20. The violation of the Cessation of Hostilities Agreement by the LTTE and the resumption of hostile activities were widely condemned by the international community. The Governments of Australia, Bangladesh, Canada, China, Egypt, India, Indonesia, Japan, Maldives, Pakistan, Russia, Thailand, the United Kingdom of Great Britain and Northern Ireland and the United States of America, as well as the European Union issued statements condemning the LTTE action. The LTTE attack on Trincomalee harbour has been followed by a series of attacks on government forces (including the shooting down of two Sri Lankan Air Force transport aircraft with SAM missiles) and massacres of civilians resulting in hundreds of deaths. The international community, which had previously commended the Government's peace initiatives, condemned these attacks and urged the LTTE to pursue peace negotiations.

21. In view of the unilateral rejection by the LTTE of the Government's peace initiative and its resumption of hostile activities, the Government has been compelled to adopt a military response. As much as the Government is committed to the pursuit of peace, it is equally committed to the sovereignty and territorial integrity of the State, its security and the unity of its people. The Government has emphasized that the response was not directed against the Tamil people, but against the LTTE. The present engagement is an exercise to create conditions conducive to the resumption of a political dialogue and to the unveiling of a political package.

22. The Government recognizes that in the light of the resumption of violence by the LTTE, there was potential for transgression of human rights. The Government is fully committed to preventing any form of retaliatory attacks in other parts of the country which could give rise to a spiral of violence.

23. The prompt and effective action taken by the Government to nip in the bud what appeared to be orchestrated events in the south in the aftermath of the brutal killing of a leading Buddhist priest by the LTTE in the Eastern Province and the action taken to punish the wrongdoers is evidence of this commitment.

24. The international community, including the United Nations and the Commission on Human Rights have recognized the efforts made by the Government to resolve the ethnic conflict and to initiate a political dialogue with the LTTE. Although the Government has repeatedly attempted to begin substantive political discussions for a negotiated settlement with the LTTE, simultaneously with the cessation of hostilities and the reconstruction of work in the north, the LTTE has made every effort to postpone this political dialogue. The Government's proposal that preliminary political talks be initiated through the medium of an independent foreign person, under the patronage of a foreign Government, was also rejected by the LTTE.

25. It was the Government's intention to discuss a package of proposals first with the LTTE and, after ascertaining their views, to enter into discussions regarding the substance of the proposals with other parties of the People's Alliance and thereafter, the opposition, including other Tamil parties and organizations. This was with a view to building a national consensus on the package of political proposals. The unilateral action of the LTTE on 18 April 1995 abruptly ended the first phase of the peace initiative which the Government embarked on in August 1994.

26. The Government considers the unilateral action by the LTTE to terminate the peace process to be only a temporary setback in one stage of the peace process. It is by no means a defeat of the peace process initiated by the Government.

27. The Government of Sri Lanka, for its part, while reiterating its abiding commitment to the peace process, will continue to make every effort to transform into reality the firm desire for lasting peace of the people of the south, as well as of the north and the east.

I. THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

28. Since the People's Alliance Government assumed office, several important measures have been initiated to give effect to its express commitment to the promotion and protection of human rights. These measures will further enhance the legislative, executive and administrative framework in Sri Lanka, to give effect to its obligations as a State party to the International Covenant on Civil and Political Rights.

A. The establishment of a national human rights commission

29. Sri Lanka has consistently supported in international forums, particularly in the United Nations, the establishment of national and regional mechanisms for the promotion and protection of human rights. Recent resolutions of the Commission on Human Rights have identified Sri Lanka as one of the countries which has taken decisive measures in the direction of establishing national human rights institutions for the promotion and protection of human rights. Both local and foreign non-governmental organizations too have strongly advocated the creation of such national institutions.

30. Legislation for the establishment of a human rights commission of Sri Lanka has been approved by the Government. Consequently, the National Human Rights commission of Sri Lanka Bill will be presented in Parliament shortly.

31. The proposed commission will consist of five members chosen from among persons with knowledge of or practical experience in matters relating to human rights. They will be appointed by the President on the recommendations of a constitutional council, a representative body comprising the Prime Minister, the Leader of the Opposition, the Speaker, the Chairman of the Chief Ministers' Conference, retired judges of the Supreme Court and representatives of the political parties having seats in Parliament. The constituting of the Council in such a manner is to ensure that the Government is not exclusively responsible for the appointment of members.

32. The method of appointment of the members of the commission is thus designed to ensure the independence and integrity of the commission in discharging its functions.

33. The functions of the commission would be as follows:

(a) Monitoring functions in respect of executive and administrative practices and procedures;

(b) Investigative functions to inquire into complaints regarding infringement or imminent infringement of fundamental rights and where appropriate to provide for their resolution by mediation and conciliation;

(c) Advisory and other functions in formulating legislation and administrative directives and procedures, and recommendations to the Government to ensure that national laws and administrative practices are in accordance with international human rights norms and standards; subscribing to

international instruments in the field of human rights; promoting awareness of, and providing education in relation to fundamental rights.

34. The Bill also provides for the investigation of allegations of an aggrieved person or a group of persons as a result of an act of a terrorist character, thus addressing the question of liability of even non-State actors for human rights violations, which is gaining increasing international attention.

35. In terms of the proposed legislation, all arrests and detentions under the Prevention of Terrorism Act and the Emergency Regulations are required to be reported to the commission. It would also be necessary to inform the commission of the places of detention of such persons.

B. The Convention against Torture

36. Sri Lanka became a State party to the Convention against Torture by depositing the instrument of accession with the United Nations Secretary-General on 3 January 1994. The Convention entered into force for Sri Lanka on 2 February 1994.

37. Upon assuming office the present Government gave priority to the passage of enabling legislation to give effect to Sri Lanka's obligations under the Convention.

38. The Convention against Torture Act (see annex II) was passed by Parliament on 25 November 1994. Under the provisions of this legislation, an act of torture is made an offence in Sri Lanka, and a person guilty of an offence under the Act, on conviction after trial by the High Court, is punishable with imprisonment for a term of not less than 7 years and not exceeding 10 years and a fine of not less than SL Rs 10,000 and not exceeding SL Rs 50,000.

39. The extradition law of Sri Lanka has been amended to include provision for extradition in respect of the offence of torture. Where there is no extradition arrangement between Sri Lanka and any other State, the Minister is empowered by order published in the Gazette, to treat the Convention against Torture as an extradition arrangement.

C. The Registration of Deaths (Temporary Provisions) Act

40. In order to remove part of the pain of mind and distress caused to the next-of-kin of the large number of persons reported missing and presumed dead, special legislation to provide for the registration of deaths of persons reported missing and believed to be dead was passed by Parliament on 25 November 1994.

41. The Registration of Deaths (Temporary Provisions) Act (see annex III) provides that where any person is reported missing and is presumed to be dead, or has not been heard of for a period exceeding one year by those who would naturally have heard of him if he had been alive, such persons can apply to the District Registrar of Deaths to register such death and obtain a certificate of death.

42. The Registrar is empowered to issue death certificates after an inquiry and if satisfied as to the truth of the matters stated in the application.

43. If any person registered as dead is subsequently discovered to be alive, the District Registrar is empowered to cancel the registration.

44. The provisions of the Act are to be in operation for a period of two years from the date of its commencement.

45. This Act will provide relief to many families whose next-of-kin "disappeared" during the civil disturbances that took place due to terrorist and subversive activities.

D. Bribery

46. The need to amend the Bribery Act and establish a permanent and independent Bribery Commission was felt to be a matter of priority by the People's Alliance Government amidst widespread dissatisfaction with the ineffectiveness in combating corruption in public life.

47. The Bribery (Amendment) Bill and Commission to Investigate Allegations of Bribery or Corruption Bill were unanimously adopted by Parliament on 5 October 1994 (see annex IV).

1. Amendments to the Bribery Act

48. Bribery has been an offence under the Penal Code of Sri Lanka since 1889. The law was further strengthened in 1954 with the enactment of the Bribery Act of that year, which has been amended eight times since.

49. The 1994 amendment seeks to correct certain shortcomings and deficiencies.

(a) New offence of corruption

50. Bribery, as defined in the Act of 1954, was felt to be limited and restricted in scope. Thus, a new offence, "corruption" has been introduced into the law. Corruption encompasses any use of public office for the purpose of private gain. It is a residual offence, which encompasses certain situations which are not adequately covered by the existing definition of the offence of bribery.

(b) Clarification of the term "public servant"

51. The term "public servant" in the Act refers to officers, servants and employees of the State. However, it does not specifically refer to Ministers, Deputy Ministers, Members of Parliament, members of the Provincial Councils, etc., thus creating an element of doubt as to whether these persons fall within the ambit of the definition. The amendment, therefore, clarifies this doubt by including Ministers, etc., in the definition of the term "public servant".

(c) **Forfeiture or confiscation of property**

52. The Bribery Act provides for a variety of penalties, such as the imposition of a fine and imprisonment. Under the new amendment, punishment for the offence of bribery or corruption could include forfeiture or confiscation of property, provided there is a judicial finding establishing a direct causal nexus between the offence of bribery and the acquisition of the particular property. The amendment, however, protects third party rights to the property.

2. Commission to Investigate Allegations of Bribery or Corruption

53. The People's Alliance Government decided that it was necessary to establish a permanent independent commission to investigate allegations of bribery due to the fact that the Bribery Commissioner's Department functioned as a government department and not as an independent body. Furthermore, Commissions of Inquiry into allegations of bribery under the Commissions of Inquiry Act or the Special Presidential Commissions of Inquiry Act are appointed by the President. This procedure too does not encourage the impartiality of the Commission.

54. The new Commission is to be impartial, independent and permanent. It comprises three members - two retired judges and a third member with investigative experience.

55. The three members are to be appointed by the President on the recommendations of a constitutional council, a representative body comprising the Prime Minister, the Leader of the Opposition, the Speaker, the Chairman of the Chief Ministers Conference, retired judges of the Supreme Court and representatives of the political parties having seats in Parliament. The constituting of the Council in such a manner is to ensure that the Government is not exclusively responsible for the appointment of members. Pending amendment of the Constitution of Sri Lanka to make provision for the appointment of the Constitutional Council, the appointments will be made by the President on the recommendation of the Prime Minister in consultation with the Speaker.

56. Once a complaint is received by the Commission, it must carry out an investigation. Where it decides that there is a prima facie case, the Commission has the power to prosecute the alleged offender before the High Court. The Commission will also have the power to issue directives (valid for three months only) to the Controller of Immigration and Emigration that the passports of persons against whom inquiries are in progress should be impounded.

57. Under the provisions of the Commission to Investigate Allegations of Bribery or Corruption Act (see annex V), the Government has already appointed a three-member Commission with effect from 15 December 1994.

E. Measures for the more effective functioning of the office of the Ombudsman

58. The office of the Ombudsman was created in 1981 to enable persons to settle their grievances regarding infringement of a fundamental right or other injustice by a public officer or officer of a public corporation, local authorities or other like institution. It was envisaged that this would afford a less dilatory and cheaper means of settling grievances. The law provided for a protracted procedure for obtaining access to the Ombudsman, namely, through a Member of Parliament, the Parliamentary Petitions Committee, the Secretary-General of Parliament and the Speaker of Parliament. This greatly restricted public access to the Ombudsman, thus impairing the efficacy of the office.

59. The Ombudsman was required to forward his determination to the Public Petitions Committee, which, after considering his report, might, at its discretion, forward its opinion to Parliament on the action to be taken on such determination.

60. In order to make the office of the Ombudsman more effective, the People's Alliance Government, upon assuming office, took the initiative of enacting the Parliamentary Commissioner for Administration (Amendment) Act No. 26 of 1994 (see annex VI). The amending legislation provides:

(a) For complaints to be forwarded directly to the Ombudsman;

(b) For the Ombudsman to report his determination directly to the head of the concerned institution and the relevant minister. There will also be provision for the Ombudsman to require the head of the concerned institution to notify, within a specified time, the steps taken by him to give effect to the recommendations of the Ombudsman. If, within the time so specified, no adequate or appropriate action is taken, the Ombudsman will be required to forward his report to both the President and the Parliament.

It is envisaged that these requirements will provide a more effective enforcement machinery.

61. With provision for direct access to the Ombudsman, it is likely that the number of petitions to him will greatly increase. Therefore, it is proposed to appoint more than one Ombudsman. They will be appointed to look into complaints arising in different areas, such as in the teaching or banking sectors.

F. The emergency

62. The state of emergency which was proclaimed on 18 May 1983 was terminated by presidential proclamation on 11 January 1989. Subsequently, however, due to the progressive escalation of violence, acts of sabotage and disruption of essential services throughout the country, the Government, in the interest of national security, invoked Part II of the Public Security Ordinance and declared a state of emergency throughout the country as of 20 June 1989.

63. The new People's Alliance Government, after reviewing the security situation, decided to end the state of emergency as of 4 September 1994, except with regard to the Northern and the Eastern Provinces and certain areas which border those two provinces, specifically designated in the Presidential Proclamation dated 1 September 1994 made under the Public Security Ordinance.

64. As of 24 October 1994 the Government reimposed the state of emergency throughout the island, due to the uncertain security situation that prevailed in the aftermath of the bomb explosion which killed the opposition presidential candidate and over 50 others.

65. The Government decided to continue the state of emergency with effect from 4 November 1994 only in the Northern and the Eastern Provinces and Colombo city and its suburbs (renewed through a proclamation). The state of emergency has been maintained in Colombo city in order to facilitate investigations into the bomb explosion of 24 October 1994.

66. The state of emergency in Colombo and its suburbs was briefly lifted on 8 and 9 November 1994 to facilitate the holding of the presidential election.

67. The proclamation of the emergency has been communicated to the Secretary-General of the United Nations in accordance with Sri Lanka's obligations under article IV of the Covenant.

G. Appointment of a commission to inquire into election-related violence and to recommend payment of compensation for loss of life

68. On the recommendation of the Minister of Justice and Constitutional Affairs, the President appointed a one man commission of inquiry under the Commissions of Inquiry Act, No. 17 of 1948 to inquire into and report on:

(a) Whether any incidents of violence which occurred during the period immediately preceding the parliamentary elections held on 16 August 1994 and the period immediately subsequent thereto and related to the holding of such elections, resulted in the loss of lives of any persons; and

(b) To recommend, where it is considered reasonable, the payment to the dependents of such persons of such compensation as is deemed just and equitable in the circumstances.

69. The Commission has submitted its final report in which payment of compensation has been recommended in 35 cases out of applications made in respect of 60 persons. The compensation recommended by the Commission is being paid by the Government.

H. Appointment of a committee to inquire into matters relating to persons detained under the Prevention of Terrorism Act No. 48 of 1979 and the Emergency Regulations

70. In view of the considerable agitation by concerned persons regarding the delay in disposing of cases relating to persons held in custody, in relation to offences alleged to have been committed under the Prevention of Terrorism

Act and the Emergency Regulations, the Minister of Justice and Constitutional Affairs appointed a committee to inquire into matters in relation to persons so detained. The Committee was chaired by a retired Supreme Court judge.

71. The terms of reference of the Committee were to inquire into and report on:

(i) The number and identity of persons presently detained under the Prevention of Terrorism Act, No. 48 of 1979 and the Emergency Regulations;

(ii) Whether their continued detention under such Act or Regulations is necessary;

(iii) The measures, if any, that are necessary to expedite the completion of proceedings, if any, against such persons;

(iv) The measures, if any, that are necessary to improve the conditions under which such persons are detained.

72. The Committee has submitted its final report. The report recommends the immediate revocation of detention orders relating to 140 persons whom the Attorney-General had decided not to prosecute, but who, nevertheless, continued to be held in detention. Consequently, the Ministry of Defence has already revoked the detention orders in respect of 138 detainees. Of the remaining two detainees, one has already been indicted in the High Court of Colombo and in respect of the other, investigation reports are under consideration by the Attorney-General.

I. Appointment of commissions to inquire into allegations regarding persons who are said to have been involuntarily removed or have disappeared from their places of residence

73. There have been allegations that from 1988 onwards persons have been involuntarily removed from their places of residence or have disappeared from their places of residence in the wake of the serious security situation which prevailed in the country at that time. Although a commission had been inquiring into aspects relating to disappearances, its mandate had been restricted to investigating disappearances which had taken place from January 1991 onwards. The People's Alliance Government, having considered it necessary to inquire into matters relating to such missing persons, appointed three commissions to cover three geographical regions of the island with a comprehensive mandate to inquire into and report on these matters with a view to offering solace and relief to families of persons established to have so disappeared or to have been so removed, by providing compensation.

74. The three commissions are to inquire into:

(a) Whether any persons have been involuntarily removed or have disappeared from their places of residence after 1 January 1988;

(b) The evidence available to establish such alleged removals or disappearances;

(c) The present whereabouts of the person alleged to have been so removed, or to have so disappeared;

(d) The person or persons, if any, responsible for such alleged removals, or disappearances;

(e) The legal proceedings that can be taken against the persons held to be so responsible;

(f) The measures necessary to prevent the occurrence of such alleged activities in the future;

(g) The relief, if any, that should be afforded to the parents, spouses and dependents of the persons alleged to have been so removed or to have so disappeared;

The commissions are presently holding sittings.

75. The Presidential Commission of Inquiry into Involuntary Disappearances in the Western, Southern and Sabaragamuwa Provinces is expected to submit an interim report to the President shortly.

J. Compensation for families of insurrection victims

76. The Government is to provide financial relief to the families of persons killed during the period of violence in Sri Lanka in the late 1980s. The families of an estimated 20,000 persons killed by the People's Liberation Front (JVP) and others will benefit under this scheme.

77. Under the existing "Most Affected Persons Scheme" there is provision for sums ranging from SL Rs 15,000 to SL Rs 20,000 to be paid to families of insurrection victims, provided police reports and death certificates are produced. However, families of the dead were unable to obtain such death certificates, because the victims had been listed as missing by the police. Under the new scheme, the major portion of the compensation is paid on an affidavit being produced by the family. The balance is paid once the death certificate is produced. This situation would be remedied to a great extent with the passing of the Registration of Deaths (Temporary Provisions) Act (annex VII).

K. Establishment of a human rights task force

78. The President and Minister of Defence has promulgated regulations under Section (5) of the Public Security Ordinance for the establishment of the Human Rights Task Force (HRTF) (annex VIII). These regulations, read together with the administrative directives issued thereunder by the President, strengthen the existing mechanism in several ways.

(a) Every member of the armed forces and the police force shall assist and facilitate the HRTF and any person authorized by the HRTF in the exercise

of its powers, duties and functions under these regulations and also ensure that the fundamental rights of persons arrested or detained are respected.

(b) No person shall be arrested or detained under any Emergency Regulation or the Prevention of Terrorism Act No. 48 of 1979, except in accordance with the law and proper procedure and by a person who is authorized by law to make such arrest or order such detention.

(c) At or about the time of the arrest or, if it is not possible in the circumstances, immediately thereafter as circumstances permit:

(i) The person making the arrest or detention shall identify himself to the person arrested, or any relative or friend of such person upon inquiry being made, by name and rank;

(ii) Every person arrested or detained shall be informed of the reason for the arrest;

(iii) The person making the arrest or detention shall issue, upon request, a receipt ("arrest receipt") at the time of arrest or detention stating the name and rank of the arresting officer, the time and date of arrest and the place at which the person will be detained in custody or be confined;

(iv) The person arrested shall be afforded reasonable means of communicating with a relative or friend to enable his whereabouts to be known to his family.

(d) When the arrest or detention of a child under 12 years or a woman is sought, a person of their choice should be allowed to accompany such child or woman to the place of questioning. As far as possible any such child or woman whose arrest or detention is sought should be placed in the custody of a women's unit of the armed forces or the police, or in the custody of another woman military or police officer.

(e) The statement of a person arrested or detained should be recorded in the language of that person's choice, who should thereafter be asked to sign the statement. A person who desires to make a statement in his or her own handwriting should be permitted to do so.

(f) The members of the HRTF or any persons authorized by it should be permitted access to the person arrested or detained under the Prevention of Terrorism Act No. 48 of 1979 or under a regulation made under the Public Security Ordinance (chap. 40), and should be permitted to enter at any time any place of detention, police station or any other place in which such person is detained in custody or confined.

(g) Every officer who makes an arrest or detention shall inform the HRTF, or any person authorized to receive notice on its behalf, of such arrest or detention and the place at which the person is being detained in custody or confined.

79. The administrative directives issued personally by the President to the heads of the armed forces and to the Inspector General of Police, represent a unique feature which is vital to the protection of human rights during a turbulent period. These directives spell out in detail the requirements which must be complied with in respect of the making of arrests and holding of persons in custody. They are designed to ensure full compliance with the due process of law and are in consonance with the obligations of Sri Lanka under the Covenant.

L. Human rights advisory group

80. An advisory committee consisting of representatives of non-governmental organizations active in the field of human rights has been established to assist the Minister for Foreign Affairs in dealing with human rights issues, in particular those relating to international obligations undertaken by Sri Lanka in this field. The members of the Advisory Committee serve in an individual capacity and on an honorary basis. Their appointment in no way precludes them from continuing to engage in their public campaigning for human rights, including commenting upon or criticizing the Government's performance in this area. Their appointment is further evidence of the Government's recognition of the need for a constant dialogue with independent non-governmental organizations on human rights issues, as well as its firm commitment to open and transparent government.

II. APPOINTMENT OF A SELECT COMMITTEE OF PARLIAMENT ON THE CONSTITUTION

81. The Select Committee of Parliament on the Constitution has been appointed under the Chairmanship of the Minister of Justice and Constitutional Affairs.

82. With regard to the Fundamental Rights Chapter of the Constitution, it is proposed to enhance and strengthen the existing fundamental rights. Among the new rights proposed for recognition are:

(i) The right to own property, alone or in association with others;

(ii) The right to freedom from unlawful interference with one's privacy, family, home or correspondence and unlawful attacks on one's honour and reputation;

(iii) The right to life;

(iv) The right to liberty and security of person;

(v) The right to information;

(vi) The right of a relative or friend to file a fundamental rights application where the person aggrieved is unable or incapable of doing so by reason of physical, social or economic disability or similar cause and with the consent of the person aggrieved; or of a body of persons to do so if the application is in the public interest and the person aggrieved raises no objection to such application.

83. These provisions would make the Fundamental Rights Chapter of the Constitution consistent with the obligations undertaken by Sri Lanka under the Covenants. The present restrictions with regard to the exercise of fundamental rights under the Constitution will also be reviewed, taking into account Sri Lanka's obligations under the Covenant.